



**MINUTES  
FREMONT PLANNING COMMISSION  
REGULAR MEETING OF AUGUST 11, 2005**

CALL TO ORDER: Chairperson Harrison called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Harrison, Commissioners Chan, Lorenz, Lydon, Sharma, and Weaver

ABSENT: King (excused)

STAFF PRESENT: Jeff Schwob, Planning Director  
Larissa Seto, Senior Deputy City Attorney II  
Michael Barrett, Assistant City Attorney  
Kathleen Livermore, Senior Planner  
Nancy Minicucci, Associate Planner  
Scott Ruhland, Associate Planner  
Rene Dalton, Associate Transportation Engineer  
Shannan Szychowski, Environmental Specialist  
Joel Pullen, Planner I  
Alice Malotte, Recording Clerk  
Chavez Company, Remote Stenocaptioning  
Miriam Shalit, Video Technician

APPROVAL OF MINUTES: Regular Meeting of July 14, 2005 approved with the following corrections:

Page 5, **Chairperson Harrison** speaking – “cert” should be added.  
Page 5, **Commissioner Chan**’s question regarding the breakdown of the money to be spent (did not total to 11.6 million dollars) – **Mr. Kalkbrenner** replied that the total budget for this project was 11.6 million dollars, which would be 3.4 million dollars for the land and 5.6 million dollars for the actual construction.

**CONSENT CALENDAR**

THE CONSENT LIST CONSISTED OF ITEM NUMBERS 1, 4, 5, 6, 9, AND 10.

IT WAS MOVED (WEAVER/SHARMA) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBERS 1, 4, 5, 6, 9, AND 10.

**Item 1. PURPLE LOTUS TEMPLE – Fox Avenue – (PLN2003-00313)** – to consider a Conditional Use Permit application and Preliminary Grading Plan for a 55,560-square foot Buddhist temple (Purple Lotus Temple) with living quarters for 120 persons (monks and guests) and a maximum capacity of 150 persons in the main hall (water ceremony hall, cafeteria at same time) and a 32,400-square foot institute (Dharma Institute) with a capacity of 250 students (consisting of adults and high school students), including quarters for 50 students, on 5.5

acres located on Trailside Terrace (south side of Fox Avenue) in the Niles Planning Area. A Draft Mitigated Negative declaration was prepared and circulated in conjunction with this project.

**CONTINUE TO A DATE UNCERTAIN TO ALLOW FOR APPLICANT TO MEET WITH THE CITY OF UNION CITY STAFF.**

- Item 4. CINGULAR WIRELESS – Hillview Drive – (PLN2005-00308)** - to consider a Conditional Use Permit for construction of a wireless telecommunication facility and a 55' tall monopole on a Alameda County Water District parcel adjacent to 614 Hillview Drive in the Niles Planning Area. The project is exempt from CEQA review, per section 15303, New Construction or Conversion of Small Structures.

**CONTINUE TO SEPTEMBER 8, 2005 TO ALLOW STAFF TO COMPLETE AN ENVIRONMENTAL REVIEW OF THE PROJECT.**

- Item 5. FIRE STATION 2 – 37299 Niles Boulevard – (PLN2005-00316)** - to consider a Finding of General Plan Conformity for acquisition of property for a new fire station proposed to be located in the Niles Planning Area. A Mitigated Negative Declaration was prepared and circulated for this project.

**CONTINUE TO SEPTEMBER 8, 2005 TO ALLOW STAFF ADDITIONAL TIME TO PREPARE AN ENVIRONMENTAL DOCUMENT.**

- Item 6. CONSTRUCTION HOURS – Citywide – (PLN2005-00331)** - to amend the Fremont Municipal Code text to regulate construction hours for development activity. This project is exempt from CEQA under Section 15061(b)(3)—no possibility of a significant effect on the environment.

**MODIFICATION TO RECOMMENDATION:**

Corrected typographical error on recommendation #2. Find that the project is exempt from the California Environmental Quality Act, per Section ~~15063(b)~~ 15061(b)(3) of the CEQA Guidelines.

**HOLD PUBLIC HEARING;**

**AND**

**FIND THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PER SECTION 15061(b)(3) OF THE CEQA GUIDELINES;**

**AND**

**FIND THAT THE PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S HEALTH AND SAFETY CHAPTER AS ENUMERATED WITHIN THE STAFF REPORT;**

**AND**

**FIND THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE REQUIRE THE ADOPTION OF THIS MUNICIPAL CODE TEXT AMENDMENT (PLN2005-00331) BECAUSE STANDARD GUIDELINES FOR CONSTRUCTION HOURS WILL LEAD TO AN INCREASE IN THE COMFORTABLE ENJOYMENT OF LIFE AND PROPERTY BY THE PUBLIC;**

**AND**

**RECOMMEND PLN2005-00331 TO THE CITY COUNCIL IN CONFORMANCE WITH EXHIBIT "A" (MUNICIPAL CODE TEXT AMENDMENT).**

- Item 9. STORMWATER QUALITY MANAGEMENT GPA/ZTA – Citywide – (PLN2006-00006)** - to consider a General Plan Amendment and Zoning Text Amendment to respond to current National Pollutant Discharge Elimination System (NPDES) permit requirements specifically pertaining to site design considerations, source control best management practices, and post-construction stormwater treatment controls. This project is exempt from CEQA under Section 15308, actions by regulatory agencies for the protection of the environment.

**HOLD PUBLIC HEARING;**

**AND**

**FIND PLN2006-00006 IS CATEGORICALLY EXEMPT FROM CEQA PER SECTION 15308 ACTIONS BY REGULATORY AGENCIES FOR THE PROTECTION OF THE ENVIRONMENT;**

**AND**

**RECOMMEND THAT THE CITY COUNCIL FIND THAT PLN2006-00006 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S FUNDAMENTAL AND NATURAL RESOURCES CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;**

**AND**

**RECOMMEND THAT THE CITY COUNCIL FIND THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE REQUIRE THE ADOPTION OF THIS ZONING TEXT AMENDMENT AND GENERAL PLAN AMENDMENT PLN2006-00006 BECAUSE THE PROPOSED TEXT CHANGES ARE NEEDED TO RESPOND TO CURRENT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT REQUIREMENTS SPECIFICALLY PERTAINING TO SITE DESIGN CONSIDERATIONS, SOURCE CONTROL BEST MANAGEMENT PRACTICES, AND POST-CONSTRUCTION STORMWATER TREATMENT CONTROLS;**

**AND**

**RECOMMEND PLN2006-00006 TO THE CITY COUNCIL IN CONFORMANCE WITH EXHIBIT "A" (GENERAL PLAN AMENDMENT) AND EXHIBIT "B" (ZONING TEXT AMENDMENT).**

- Item 10. BAY STREET PARKING OPTIONS – Bay Street – (PLN2006-00022)** - to consider a Finding of General Plan Conformity for acquisition of property for a proposed public parking lot to be located behind 4120 Bay Street in the Irvington Planning Area. A Mitigated Negative Declaration has been previously prepared and adopted for this project.

**HOLD PUBLIC HEARING;**

**AND**

**FIND THAT PLN2006-00022 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S ADOPTED GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES AS SET FORTH IN THE GENERAL PLAN'S LAND USE CHAPTER, AS SET FORTH IN EXHIBIT "A", HEREBY ADOPTED BY REFERENCE.**

The motion carried by the following vote:

AYES:	6 – Chan, Harrison, Lorenz, Lydon, Sharma, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	1 – King
RECUSE:	0

## **PUBLIC COMMUNICATIONS**

### **ORAL COMMUNICATIONS**

## PUBLIC HEARING ITEMS

- Item 2.**     **FIRST CHRISTIAN CHURCH - 35601 Niles Boulevard - (PLN2005-00198)** - to consider a Condition use Amendment and a Tentative Parcel Map 8598 to subdivide the existing Church property into two parcels located in the Niles Planning Area. This project is categorically exempt from CEQA under Section 15315, Minor Land Division.

**Chairperson Harrison** opened the public hearing.

**Marvin Smitherman**, civil engineer who prepared the plans for the project, introduced his client, The Reverend Joe Walters, who wished to request modification of some of the conditions.

**The Reverend Walters** stated that his church planned to move into another church's building while the other church would move into his church's current building. His church would have the larger building, so it would pay 500,000 dollars to the other church and give 1.4 acres of their land plus the current building on that parcel. His church had 100,000 dollars to spend for improvements in the building that the other church would occupy, as well as the 500,000 dollars they would pay to the other church. Therefore, the fire hydrant, the wall and fence and the parking lot improvements mandated by the city would cost an additional 100,000 dollars, which made that cost a "deal breaker" for his church. He asked for a delay of the improvements until the 2.4 acres (the rest of the church's property) was sold to a residential developer.

**Mr. Smitherman** stated that the church's property was being subdivided into two parcels: 1.4 acres (Parcel 2) with a small church on it and the larger 2.41 acre, L-shaped property (Parcel 1). He made the following suggestions concerning the conditions mentioned above:

- **Fire Hydrant** – He knew it would cost approximately 120,000 dollars. He stated that two fire hydrants currently existed approximately 400 feet away from the existing building. No new building construction was proposed, so nothing would change. The fire hydrant could be included when the 2.41 acres (Parcel 1) was developed or when Niles Boulevard was improved. This would allow the church to financially subdivide the property and complete its agreement with the other church. If the fire hydrant were required by the city in conjunction with the subdivision, "this project would not happen." The provision for the fire hydrant could be recorded on title, so that any future purchaser of Parcel 1 would know the fire hydrant would have to be installed and the city would retain control.
- **Fence and masonry wall along the property line** to screen the residential property on the other side was the smaller, lesser problem. The residential portion referred to in the report was the vacant, 2.41-acre parcel, which was an empty lot. He suggested that the wall and fence be added as a condition to Parcel 1, as it made more sense for the developer to install a wall and fence that echoed the architecture of the future development, rather than install the wall and fence at this time, with another wall and fence constructed alongside it at the time of development.

Consequently, Parcel 2 could be improved with new curbs and gutters, new landscaping with a new irrigation system and new lighting.

**Chairperson Harrison** asked for comments from staff concerning the speaker's request.

**Planning Director Schwob** stated that the City Engineer would have to make the decision concerning the deferral of the public improvements that had been requested by the city. However, the Commission could make a recommendation. The wall and fencing were

planning requirements and could not be waived. Staff believed the wall should be put in place so that the burden did not transfer to the purchaser of the other parcel. The fencing would be within the Commission's purview, as it could decide if a fence was required on the remaining part of the property and it could become the responsibility of the residential builder of the other lot.

**Chairperson Harrison** asked if the Fire Department would be involved with the decision concerning the possible deferral of the installation of the fire hydrant. He would prefer that the Fire Department make the decision about the necessity of the fire hydrant before the engineer made his decision.

**Planning Director Schwob** replied that the Fire Department would be intimately involved with the decision.

**Chairperson Harrison** asked if it was appropriate for the Commission to recommend the applicant's request concerning the deferral of the installation of the fire hydrant to a time when the parcel was developed.

**Senior Deputy City Attorney Seto** replied that, typically, deferred improvement agreements were deferred to staff to decide the correct time in which to trigger the requirement that either the property owner or the developer must actually construct the deferred improvement. Depending upon other city improvements in the area, the property owner might be required to install the fire hydrant before the property was sold to a developer.

**Planning Director Schwob** suggested that the Commission could add verbiage that stated, ". . . unless deferred through a deferral improvement agreement."

**Commissioner Lydon** asked if consideration had been made to allow a sprinkler system to provide full fire protection for the building. He suggested that a sprinkler system retrofit could replace the 120,000-dollar fire hydrant requirement, which might be more beneficial than the hydrant.

**Planning Director Schwob** agreed that a sprinkler system might be more beneficial than a hydrant and it could be evaluated as part of the deferral request in lieu of a fire hydrant.

**Commissioner Chan** asked, if improvements to Niles Boulevard were made and a fire hydrant was installed, who would bear the expense.

**Senior Deputy City Attorney Seto** replied that it would be paid by the owner as part of the deferred improvement agreement. The city would approach any other property owners with similar agreements and advise them that they would be responsible for their prorata share of the cost of the design and the actual installation.

**Commissioner Weaver** asked when the Niles Boulevard improvements were scheduled. Could the deferred installation of the fire hydrant eventually cost more than 120,000 dollars to the applicant if installed sometime in the future.

**Planning Director Schwob** said that the improvements would not be scheduled for at least two years.

**Senior Deputy City Attorney Seto** agreed that the fire hydrant improvement could cost more, based upon inflation and because the city was doing the improvement, than when developers made the improvements, which was why developers often choose to include them within their plans.

**Chairperson Harrison** opened the public hearing.

**Mr. Smitherman** closed by stating that he had not considered interior sprinklers, but thought it might be akin to installing “sprinklers into a doghouse,” as the church was small. In terms of fire safety, he believed the property would be safer after Parcel 2 was sold than it was currently.

**Mr. Smitherman** stated that a deferred agreement would allow the church to make payments for the fire hydrant over time when the property tax was paid, which would be less difficult. Again, he opined that installing a masonry wall on the property line of the two future parcels was not currently needed, because there were no homes on the vacant lot that needed a wall to shield lights and noise. The residential developer would most certainly wish to provide the wall when the residences were constructed and installing a wall that would be the first of two, at this time, did not make sense.

**Commissioner Chan** asked the following questions:

- *Was it likely that future development would be of condominiums or residences that would adhere to the current zoning of R-1-6 units?*

**Planning Director Schwob** agreed that the zoning was R-1-6, but that did not prevent a condominium development being proposed that fit within the present zoning code. However, typically, a condominium project would propose a rezoning to allow different standards.

- *If the applicant installed the fire hydrant and if the Niles Boulevard was improved by the city, would the fire hydrant be moved?*

**Planning Director Schwob** stated that the fire hydrant might be moved if it conflicted with access to the site, however, he did not anticipate that happening.

- *Who would retain the ownership of both parcels?*

**The Reverend Walters** stated that each church would own its own parcel, i.e., the other church would own Parcel 2, along with the building; his church would own Parcel 1 and the building and land originally owned by the other church.

**Chairperson Harrison** asked if a special improvements district would be created for one fire hydrant.

**Senior Deputy City Attorney Seto** clarified that, in theory, an assessment district might be created for improvements that would benefit many property owners along Niles Boulevard. However, no assessment district would be created for one fire hydrant that would benefit one property owner.

**Chairperson Harrison** closed the public hearing.

**Commissioner Lorenz** asked the following questions:

- *Would the city face liability issues if the fire hydrant requirement was dropped and an incident occurred?*

**Senior Deputy City Attorney Seto** replied that there would be no city liability in that situation.

- *With the building at approximately 2,400 square feet, he guessed a sprinkler system would cost approximately 50,000 dollars (he noted that some of the public were nodding their heads in agreement).*
- *If the applicant's request was agreed to, the property would become encumbered and would place a burden on the property owner to disclose it and he asked if it would then be mandatory for the fire hydrant to be installed.*

**Senior Deputy City Attorney Seto** replied that a deferred improvement agreement was recorded against the title of the property and it would give notice to any future buyer.

*He also noted that some kind of negotiation would probably have to occur between the parties to cover the cost of the fire hydrant when the property was sold. He also agreed to deferring or not requiring the installation of the wall by the applicant.*

**Commissioner Chan** asked if a sprinkler system would suffice in lieu of a fire hydrant.

**Planning Director Schwob** suggested that staff consult with the Fire and Building Code Departments to ascertain if a sprinkler system would meet the requirement.

**Commissioner Weaver** offered to make a motion and make an addition to Condition 11, subject to a deferral agreement with respect to the fire hydrant. Should staff decide that sprinklers would suffice, it would provide an option for the applicant. However, it must be either a fire hydrant or sprinklers.

**Senior Deputy City Attorney Seto** clarified that the additional condition would pertain to the tentative parcel map, Exhibit B, Condition 9, which would provide a deferred improvement agreement instead of requiring the installation of a fire hydrant prior to approval of the final parcel map.

**Planning Director Schwob** stated that the appropriate condition was Condition 9 rather than Condition 11.

**Commissioner Lorenz** expressed concern about requiring a sprinkler system since an accurate cost was not available.

**Senior Deputy City Attorney Seto** explained that the need for a sprinkler system in the existing church could be analyzed by staff and either sprinkler systems in the new residences or a fire hydrant would be required.

**Commissioner Lorenz** stated, for the record, that he agreed with all safety measures that were necessary, but he was concerned about the impact of costs on the potential subdivision.

**Commissioner Sharma** summarized that neither the hydrant nor the sprinklers would be tied to Parcel 1 and the applicant would not be required to install either at this time. He asked if the deferral agreement would be recorded against the title of the parcel.

**Planning Director Schwob** replied that the applicant could pursue installing a sprinkler system in the existing building in lieu of the fire hydrant and the city would look at whether a new fire hydrant was necessary when Parcel 1 was developed, independently, as a part of that approval. As an alternate to not installing the fire sprinkler system in the existing building, they could also request a deferral agreement to not install the fire hydrant at the present time. If a sprinkler system was installed, there would be no requirement to install a fire hydrant. However, as the new development progressed on Parcel 1, the fire hydrant requirement would be triggered, again.

IT WAS MOVED (WEAVER/CHAN) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0)  
THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

**AND**

**FIND PLN2005-00198 IS EXEMPT FROM CEQA, PER 15315, MINOR LAND DIVISION;**

**AND**

**FIND PLN2005-00198 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S FUNDAMENTAL GOALS AND LAND USE CHAPTER AS ENUMERATED WITHIN THIS REPORT;**

**AND**

**APPROVE THE CONDITIONAL USE PERMIT AMENDMENT AND VESTING TENTATIVE PARCEL MAP 8589 PLN2005-00198, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS IN EXHIBIT "B" AND EXHIBIT "C".**

The motion included the following modification to Condition 9 of Exhibit B, Tentative Parcel Map conditions: direct the City Engineer, in consultation with the Fire Department, to consider a deferred improvement agreement relative to the fire hydrant required to be installed prior to approval of the final parcel map. Retrofitting the church with a fire sprinkler suppression system is another acceptable option for consideration.

The motion carried by the following vote:

AYES:	6 – Chan, Harrison, King, Lorenz, Lydon, Sharma, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	1 – King
RECUSE:	0

- Item 3. CANYON HEIGHTS GPA – 40770 Canyon Heights Drive – (PLN2005-00234)** - to consider a General Plan Amendment to change the land use of the 4.9 acre project site from Institutional Open Space to Low Density Residential, 3-5 units per acre (1.65 acres) and Hill Face Open Space (3.25 acres), and a rezoning from Open Space to Planned District, P-2005-234. A Mitigated Negative Declaration was prepared and circulated for this project.

**Commissioner Lorenz** recused himself, because he lived within 500 feet of this project.

**Associate Planner Ruhland** introduced consultant Tom Shannon. The 3.25-acre parcel was above the toe of the hill with the remaining 1.65 acres below the toe of the hill and staff had proposed a rezoning of 3-5 units per acre below the toe of the hill and open space above. The entire 4.9-acre parcel would be rezoned Planned District. The 3.5-acre open space area would become a flag lot attached to one of the Low Density Residential lots. Certain agricultural uses for the 3.25 acres would conform to Measure T. Three scenarios were discussed. The below the toe of the hill parcel would be subdivided into five single-family lots with one lot acting as a panhandle to the lot created above the toe of the hill. Staff had created architectural design guidelines and development standards as part of the planned district to assist with evaluating proposed development. He stated that the city owned this parcel and after approvals by the Planning Commission and City Council sometime in October, the public lands bidding process would start.

**Chairperson Harrison** opened the public hearing.

**Commissioner Sharma** asked if this project was being brought before the Commission to provide an example of what could be expected to be seen in the future concerning lots that straddled the toe of the hill line.



**Planning Director Schwob** replied that this presentation was to inform the Commission that the City Council had already adopted these rules for toe of the hill subdivisions as part of the final amendments to Measure T implementation.

**Chairperson Harrison** asked who would own the parcel(s) above the toe of the hill.

**Associate Planner Ruhland** stated that Lot 5 would own the 3.5- acre parcel above the toe of the hill.

**Commissioner Lydon** asked if five lots would front Canyon Heights Drive with access to the parcel above the toe of the hill through one of the lots.

**Associate Planner Ruhland** said that there would not necessarily be a drive access to the parcel above the toe of the hill, but that property owner could provide an access, as allowed by Measure T.

**Commissioner Chan** had comments and questions as follows:

- *The Commission had received two email letters with concerns about the subdivision. She asked staff to comment on one of the letters from a property owner whose property was two feet higher than the property to be subdivided.*

**Associate Planner Ruhland** answered that the grading ordinance prevented grading impacts on one lot to impact a neighboring lot, and the City Attorney had responded accordingly. Each property owner would be responsible for drainage on his own lot to insure that drainage did not occur across parcel lines.

**Senior Deputy City Attorney Seto** added that as each single-family home came to the city for development, a geotechnical study would have to be performed to address those kinds of issues.

- *What would the future liability to the city be, since this property was located within a seismic hazard zone?*

**Associate Planner Ruhland** stated that the city had conducted a soils and seismic report for the property in order to determine the proper construction standards. The seismic report would provide recommendations based upon the implications noted in the report.

- *Would the cost of the geotechnical studies be borne by the developer?*

**Associate Planner Ruhland** stated that the city was currently preparing the geotechnical study.

- *Would there be any additional costs to the property owner?*

**Associate Planner Ruhland** stated that it depended upon the results of the study.

**Senior Deputy City Attorney Seto** stated that additional studies might be needed by the individual property owner concerning the siting of the house or other decisions that were associated with that specific lot.

- *Another email concerned the request that the lots be available for individual development by individual purchasers. How did the city plan to sell the land?*

**Tom Shannon**, consultant, had recommended the property be made available to developers after the end of the year and he stated that selling the individual parcels to individual purchases would be a much more complicated process than selling all parcels to one developer. It was not in the city's best interest to make electricity, sewer and water improvements, which would have to be done if the lots were to be sold to individual purchasers.

- *Would the City Council make the final decision after reviewing the bids?*

**Mr. Shannon** agreed that it would be at the discretion of the City Council. If a bid were accepted, then a contract would be created.

**Chairperson Harrison** asked if Measure T would impact any future additions or improvements that the property owner might wish to perform on the homes built on these five lots. If a private party owned this parcel, would he be allowed to do what was being proposed by the city?

**Associate Planner Ruhland** answered that Measure T would not influence any improvements done on property below the toe of the hill and the city was not proposing anything different from what could be proposed by a private owner.

**Chairperson Harrison** closed the public hearing.

IT WAS MOVED (SHARMA/WEAVER) AND CARRIED BY THE FOLLOWING VOTE (5-0-0-1-1) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

**AND**

**RECOMMEND THAT THE CITY COUNCIL FIND THE INITIAL STUDY CONDUCTED FOR THE PROJECT HAS EVALUATED THE POTENTIAL IMPACTS THAT COULD CAUSE AN ADVERSE EFFECT, EITHER INDIVIDUALLY OR CUMULATIVELY, ON WILDLIFE RESOURCES AND FIND THAT THERE IS NO EVIDENCE THE PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES. AS A RESULT, RECOMMEND THE FILING OF A CERTIFICATE OF FEE EXEMPTION FOR THE PROJECT;**

**AND**

**RECOMMEND TO THE CITY COUNCIL THE ADOPTION OF A MITIGATED NEGATIVE DECLARATION FINDING THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT, AS MITIGATED, WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND FURTHER FIND THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;**

**AND**

**RECOMMEND TO THE CITY COUNCIL APPROVAL OF THE MITIGATION MONITORING PLAN FOR THE PROJECT;**

**AND**

**FIND THAT THE PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE CHAPTER AS ENUMERATED WITHIN THE STAFF REPORT;**

**AND**

**RECOMMEND TO CITY COUNCIL APPROVAL OF PLN2005-00234 TO AMEND THE GENERAL PLAN LAND USE DESIGNATION FOR THE PROJECT IN CONFORMANCE WITH EXHIBIT "A" (GENERAL PLAN AMENDMENT EXHIBIT);**

**AND**

**FIND PLN2005-00234, AS PER EXHIBIT "C" (PRELIMINARY PLANNED DISTRICT), FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE;**

**AND**

**RECOMMEND TO THE CITY COUNCIL THE REZONING AS SHOWN ON EXHIBIT "B" (ZONING EXHIBIT) AND EXHIBIT "E" (PLANNED DISTRICT EXHIBIT) PLN2005-00234 BE APPROVED, BASED UPON THE FINDINGS AND SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN EXHIBIT "D".**

The motion carried by the following vote:

AYES:	5 – Chan, Harrison, Lydon, Sharma, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	1 – King
RECUSE:	1 – Lorenz

**Item 7. BICYCLE MASTER PLAN GPA – Citywide – (PLN2005-00354)** – to consider a General Plan Amendment to the Transportation Element of the City's General Plan for the updated City of Fremont Bicycle Master Plan. A Negative Declaration was prepared and circulated for this project.

**René Dalton**, Associate Transportation Engineer, introduced Brett Hondorp, consultant with Alta Planning and Design, who would give the presentation.

**Brett Hondorp**, consultant, stated that a Bicycle Master Plan would provide a blueprint for bicycle facilities in the city; it would allow the city to maximize its funding opportunities; it would provide a chance to revisit the existing bicycle network and to look for ways in which to expand and enhance it; it would provide education and encouragement for bicycle safety; and it would encourage people to bicycle rather than drive. This list would be updated periodically and bicycle improvements could be reprioritized. Three public meetings had been held to gather public opinion and input. It was expected that the City Council would adopt it in late September. CalTrans designations were used in the plan, because this plan had to be approved and certified by CalTrans. Class I was off-street, multiuse paths; Class II was on-street, striped bicycle lanes; and Class III was signed bicycle routes, which were shared with motor vehicles where there was not enough room to provide striped lanes. Support facilities would be included, such as, bicycle parking, bicycle loop detectors at intersections that could be triggered by bicyclists, and signage. Maintenance was included in the plan, along with cost estimates and potential funding sources. He displayed a map that showed existing bicycle facilities and proposed future facilities. Signage and stenciling would be used for Class III, signed bicycle routes. Design enhancements were proposed to make it safer for cyclists at intersections and freeway interchanges. A Class I, multiuse path was recommended between the southern portion of Fremont Boulevard and Dixon Landing Road in Milpitas, which had been repeatedly mentioned during the public hearings. Showers and lockers, in addition to bicycle storage facilities, were recommended to be provided by major employers in the city.

**Chairperson Harrison** opened the public hearing.

**Commissioner Sharma** recalled the unsafe bicycling situation in Palo Alto on some of the city streets. He asked if some kind of marking could be put along the road when a bicycle lane was not feasible, due to the street being too narrow.

**Mr. Hondorp** showed the symbol that was proposed for the situation he described. It could be stenciled on heavily used corridors every few hundred feet.

**Commissioner Sharma** asked if the consultant knew of any city where this symbol was being used. He felt it was very important to somehow mark streets without bike lanes.

**Mr. Hondorp** stated that the City of San Francisco was using it. San Francisco had performed the original pilot study and it was being considered by CalTrans for formal adoption.

**Commissioner Sharma** asked if this symbol had helped to reduce accidents involving bicyclist and motorists.

**Mr. Hondorp** did not have any formal data, except for a study performed by the City of San Francisco, which shifted the bicyclists' position a measurable distance from parallel-parked vehicles and, consequently, reducing injury from the opening of vehicle doors.

**Commissioner Lorenz** had comments and questions, as follows:

- *The Normandy Park Homeowners Association had spoken at one of the public hearings and he asked where it was located in the city.*

**Transportation Engineer Dalton** replied that Normandy Park was located on the west side of Fremont Boulevard, north of Nicolet Avenue.

- *How did Class II bicycle lanes impact existing parking in the commercial areas, specifically, an auto dealership on Fremont Boulevard near American High School?*

**Transportation Engineer Dalton** stated that some parking might be impacted, but it would probably be moved up or down the street rather than parking allowed in front of that business.

- *His family owned the Depot Café at the Centerville train station and part of their duties as Altamont Commuter Express agents was to daily count the number of bicycles on and off the trains. One of the problems seen was that the commuters had no facilities in which to store their bicycles over the weekend (other than bike racks, which were subject to vandalism). If bicycle lockers could be installed using Measure B funds, would that preclude charging for their use? He stressed that facilities should be in place to support the use of bicycles. He also stated, for the record, that the issue of the installation of bike lanes that could impact business parking on Fremont Boulevard was critical.*

**Transportation Engineer Dalton** replied that the city had never had bike lockers available for bicyclists, so owning, maintaining and charging fees would be something new and would have to be looked into.

**Chairperson Harrison** asked if the bicycle loops in the intersections would be part of the upgrades performed in the future, along with other questions, as follows;

**Transportation Engineer Dalton** stated that a project was underway at this time to install bicycle detection at signalized intersections. Priorities were set by input from the public and the bicycle committee.

- *Table 2.6 showed the major employers in the city and he wondered why the schools were not listed along with the major employers, as students probably used bicycles more than any of the listed employers. He suggested that bicycle registration and the steps needed to report and recover a stolen bicycle should be included in the education portion of the Plan.*
- *Table 4.4 listed accidents from 2000 to 2004 where the majority of them seemed to stem from the bicyclist riding on the wrong side of the street. Other than through education, how else could that problem be addressed?*

**Mr. Hondorp** stated that it was “difficult to design the problem away.” Some cities had bicycle riding signage in their downtowns and/or on the sidewalks, which were frequently ignored. Education and enforcement, such as warnings, might help. He understood that cyclists felt safer riding on the sidewalk and facing traffic, but those two behaviors were most likely to result in a collision.

- *On page 5-13, the development of a "Safe Routes to School" program was mentioned. Again, children bicycling to school seemed to be the biggest uses. He hoped that it would not be ignored and perhaps should have a little more teeth in it to make certain that it became a major part of the Plan.*
- *Would horse trails be a part of this Plan?*

**Transportation Engineer Dalton** replied that in the General Plan, Chapter 8, a bicycle/horse trail was shown on the map. That would not be changed.

**Planning Director Schwob** added that the person who was interested in a horse trail had participated in some of the meetings.

**Transportation Engineer Dalton** confirmed that she had been a member of the committee.

- *Would this Plan address some of the problems Mr. Knight had brought up, such as bike lanes suddenly stopping and dumping the bicyclist into traffic?*

**Mr. Hondorp** stated that issue was part of the BP members' top ten list. All of the locations where the bike lanes dropped were visited as part of the fieldwork. The design recommendations focused on those areas.

- *He had given a neighbor, who occasionally rode his bicycle across the Dumbarton Bridge to Palo Alto, a copy of the draft Plan. Was it available on the city's web page?*

**Transportation Engineer Dalton** replied that the Plan was on the city's web site.

**Planning Director Schwob** thought the neighbor might not have been able to find the Plan on the city's web site, because it was linked through the engineering page.

**Commissioner Weaver** asked where Washington Hospital fell within the major employers list and she was curious about the bike racks and other facilities they had. It would be a wonderful project.

**Commissioner Chan** had the following questions:

- *The recommended cost was 2.6 million dollars. How much would be funded through Measure B, what other sources of funding would be available and, if the Plan were approved by City Council, when would implementation begin?*

**Transportation Engineer Dalton** stated that approximately 500,000 dollars annually from Measure B funds would be available for the next 20 years. Other sources of funding were mentioned. The bicycle committee and staff would prioritize the list of projects every two years, and those high priority projects would be put forth for funding through the Capital Improvement Program.

**Mr. Hondorp** added that the 6.2 million dollar figure was misleading, because almost 6 million dollars would be spent for Class I, off street pathways, with approximately 4

million dollars of that to be spent on the Union Pacific rail trail. Both facilities would serve a different type of user and the projects needed to be balanced.

- *She echoed Commissioner Lorenz's concern about the possibility of eliminating parking in front of businesses that depended upon it being available for their customers. How did one decide who came first, the bicyclists or the businesses?*

**Transportation Engineer Dalton** stated they would be decided on a case-by-case basis. A time-lapse camera would be used to monitor certain streets where bicycle lanes were being considered to see the use. Property owners would be noticed and feedback would be received from them. The preference was to have adequate street width to allow for both parking and a bicycle lane. If it was determined that the street width was inadequate, signage and stencils would be added.

**Mr. Hondorp** said that this plan was merely a vision for a bicycle network within the city and current realistic conditions were reflected in the Plan. Flexibility was provided to allow the city to make the appropriate decision for a case-by-case bicycle lane project according to parking conditions, the right-of-way conditions and traffic conditions. Just because the map showed a proposed bicycle lane close to a business, the city would still need to go out and study it and do the proper engineering.

- *A speaker at one of the meetings had concerns about pinecones and other debris that made bicycling difficult. Was maintenance and repair of the paths concurrent with street maintenance and repair?*

**Transportation Engineer Dalton** replied that bicycle path maintenance was performed along with the street sweeping program.

- *How many bicycles did one bike rack accommodate when one bike rack was required per ten employees?*

**Transportation Engineer Dalton** stated that the inverted U bike rack held two bicycles. Different cities based the number of bike racks on different criteria. The one bike rack per ten employees was a sample ordinance and it could be changed to fit the needs of the city.

**Commissioner Lydon** asked what kind of an encumbrance would be put on the city concerning those sites that could have a contentious situation if parking were removed. Did staff have any idea of how many of those potential case-by-case disagreements the city might have with members of the business and residential community who did not want to lose parking spaces? Would the loss of key parking spaces in front of an auto dealership, for example, be the norm or the exception for the business community? Was staff talking about moving parking to approximately 250 feet from the front of the business, which seemed unfair?

**Transportation Engineer Dalton** did not know a specific number, but parking was generally prohibited on most of the arterial streets because they were meant to move traffic. On the minor streets, on-street parking was generally allowed. In cases where parking had been removed, it had been actually relocated further up the street. In one example, the business owner did not want to lose parking and the city accommodated him by removing the third travel lane to accommodate parking and to install a bicycle lane. The parking decision would be made on a case-by-case basis, but the city would make an effort to accommodate business and residential property owners.

**Commissioner Lydon** wondered if the above example compounded the problem by removing the third lane.

**Transportation Engineer Dalton** stated that a study had been performed and it had been determined that the third lane was not needed at that location.

**Chairperson Harrison** asked if someone else's parking was removed or relocated when parking was moved up the street from in front of the business that was used in the example above. He asked if the city was being proactive about bringing the business owners into the decision making, rather than just sending out notices and assuming there was no problem when no responses were received.

**Transportation Engineer Dalton** answered that, in that example, there had been little demand for on street parking at the site where parking had been relocated. Notices were sent to business and residents whose properties fronted the affected streets when the projects were in the beginning stages. Notices were again sent when the projects were scheduled to be heard by Council.

**Planning Director Schwob** stated that he heard the Commission was concerned that people were properly noticed and properly engaged in the process, as each project was being planned. This was a "general" plan and the need for bicycle facilities had been "generally" identified. Perhaps the usual procedures should be a little refined to make certain that the businesses and residents were involved, as each project moved forward.

**Commissioner Sharma** added that this Plan was just a guideline, and it would not take away anyone's parking. It seemed that staff was saying that if there was a dispute about parking, it would either be resolved through negotiation or the parking would stay the same.

**Transportation Engineer Dalton** agreed with Commissioner Sharma's comments, City Council would make the final decisions.

**Commissioner Lorenz** understood the "general plan nature" of this Plan and that it was "just a guideline;" however, he believed, "If we move forward with this, as it is, it will incite some business owners." He again stated that he had concerns specifically along Fremont Boulevard between Central and Alder Avenues and further towards the Hub where Luxor Motors had their business and where there was a lot of on-street parking use. The businesses needed to know, up front, what this Plan actually meant. He supported the Plan.

**Commissioner Lydon** asked for a description of the resolution process. If an individual was reluctant to give up his parking spaces, what guaranteed the integrity of the bicycle lane?

**Transportation Engineer Dalton** replied that one bicycle lane project had been implemented in blocks and when there was no room for a bicycle lane, it was designated as a bicycle route through signage and stenciling on the street. Staff would make recommendations and the City Council would make the final resolution.

**Commissioner Chan** again expressed concern about any business losing vital parking spaces. She feared that moving parking spaces would make it inconvenient for customers and residents. If a business adamantly refused to give up their parking for a bicycle lane, would the lane just stop, making it unsafe for the bicyclists and the motorists?

**Michael Graff**, Bicycle Pedestrian Technical Advisory Committee member, thanked staff for the work done on the Plan, as he had made many suggestions. Whether there was a bike lane or not, there was still a continuity issue. Fremont Boulevard was a hodgepodge, as many sections did not have a specific bike lane and a cyclist had to shift from a bike lane to a wide outside lane to a narrow outside lane. He stated that on the northbound side of Fremont

Boulevard, the project had removed three parking spaces that he had never seen used and basically added paint to designate the bike lane. On the southbound direction, a cyclist had to merge out of the bike lane to allow for motorists to use the right-turn lane at Thornton Avenue. He had never seen a vehicle parked on the street in front of Luxor Motors. He assumed that since an auto dealer's property was essentially a parking lot, there should be plenty of room for customers to park onsite. The width of the road determined the continuity of that portion of the street reserved for cyclists, not the designated bike lane.

**Transportation Engineer Dalton** closed by stating staff had six recommendations and he encouraged the Commission to recommend the Plan to City Council.

**Chairperson Harrison** closed the public hearing.

**Chairperson Harrison** stated that he would support the Plan and emphasized that he shared the concerns about parking that the other Commissioners had expressed. It was important to work with the business owners. He again noted that a strong emphasis needed to be made when promoting the "Safe Routes to School" program.

**Commissioner Sharma** expressed full confidence in city staff that everyone would be treated fairly as the bicycle projects moved forward. He noted that, as a jogger, he and other people using the sidewalks in the city were unsafe because of bicyclists zipping through without any warning. He hoped that education and enforcement would improve sidewalk safety. Providing more facilities for bicyclists would contribute to this great city.

**Commissioner Lorenz** agreed with Chairperson Harrison's comments and asked that the Commission's concerns be added to the recommendations to show that the city was business friendly.

**Commissioner Lydon** stated that the speaker had helped him to understand that the system would never be pure and it would never be all that bicyclists might want. The city streets were a hodgepodge of development but a successful implementation was possible, as long as all parties understood it.

**Commissioner Chan** echoed all comments made and she looked to staff to incorporate Commissioner Lorenz's concerns.

Planning Director Schwob suggested the following implementation measure be added to the Bicycle Master Plan (under Chapter 6, Section 6.1 between numbers 3 and 4) and to the General Plan (Implementation 6 to T-2.4.1 of Chapter 8, Transportation): "Consider the parking needs of businesses and property ownership regarding the development of new bicycle lanes through a thorough community engagement process."

IT WAS MOVED (WEAVER/SHARMA) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THAT THE PLANNING COMMISSION **HOLD PUBLIC HEARING;**

**AND**

**RECOMMEND THAT THE CITY COUNCIL FIND THE INITIAL STUDY CONDUCTED FOR THE PROJECT HAS EVALUATED THE POTENTIAL IMPACTS THAT COULD CAUSE AN ADVERSE EFFECT, EITHER INDIVIDUALLY OR CUMULATIVELY, ON WILDLIFE RESOURCES AND FIND THAT THERE IS NO EVIDENCE THE PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES. AS A RESULT, RECOMMEND THE FILING OF A CERTIFICATE OF FEE EXEMPTION FOR THE PROJECT;**

**AND**

**RECOMMEND TO THE CITY COUNCIL THE ADOPTION OF A NEGATIVE DECLARATION FINDING THAT THERE IS NO SUBSTANTIAL EVIDENCE THAT THE PROJECT WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND**



FURTHER FIND THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND

FIND THAT THE PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S TRANSPORTATION CHAPTER AS ENUMERATED WITHIN THE STAFF REPORT;

AND

RECOMMEND TO COUNCIL APPROVAL OF PLN2005-00354 TO AMEND THE GENERAL PLAN TRANSPORTATION CHAPTER FOR THE PROJECT IN CONFORMANCE WITH EXHIBIT "B" (GENERAL PLAN AMENDMENT EXHIBIT);

AND

RECOMMEND TO COUNCIL THE ADOPTION OF THE BICYCLE MASTER PLAN.

The Commission added the condition that the following implementation measure be added to the Bicycle Master Plan (under Chapter 6, Section 6.1 between numbers 3 and 4) and to the General Plan (Implementation 6 to T-2.4.1 of Chapter 8, Transportation): "Consider the parking needs of businesses and property owners regarding the development of new bicycle lanes through a thorough community engagement process."

The motion carried by the following vote:

AYES:	6 – Chan, Harrison, Lorenz, Lydon, Sharma, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	1 – King
RECUSE:	0

**Item 8. ANNUAL REPORT ON THE GENERAL PLAN AND HOUSING ELEMENT – (PLN2005-00356)** – to consider an annual report on the status of the General Plan and Implementation of the Housing Element. This project is statutorily exempt under the CEQA Guidelines Section 15262, Feasibility and Planning Studies.

**Senior Planner Livermore** announced that all the programs with determinant status were complete. The different redesignation and zoning programs were at 100 percent to accommodate the units required for the city by the State.

**Commissioner Sharma** asked how long would it take to actually make the units available to the public.

**Senior Planner Livermore** replied that applications for development had been received concerning the rezoned and redesignated properties.

**Senior Deputy City Attorney Seto** noted that the State only required the city to rezone to accommodate those units; there was no requirement that the city facilitate the building of those units or that they were actually built.

**Chairperson Harrison** opened and closed the public hearing.

**Commissioner Weaver** congratulated staff on their hard work.

IT WAS MOVED (WEAVER/LORENZ) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

RECOMMEND THE CITY COUNCIL FIND THE ANNUAL REPORT IS STATUTORILY EXEMPT UNDER CEQA GUIDELINES, SECTION 15262, FEASIBILITY AND PLANNING STUDIES;

**AND**  
**RECOMMEND THE CITY COUNCIL FIND THAT THE ANNUAL REPORT OF THE  
GENERAL PLAN AND HOUSING ELEMENT ACCURATELY DEPICTS THE CURRENT  
STATUS OF THE CITY OF FREMONT WITH RESPECT TO THE GENERAL PLAN AND  
HOUSING ELEMENT.**

The motion carried by the following vote:

AYES:	6 – Chan, Harrison, Lorenz, Lydon, Sharma, Weaver
NOES:	0
ABSTAIN:	0
ABSENT:	1 – King
RECUSE:	0

### **MISCELLANEOUS ITEMS**

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.

**Planning Director Schwob** thanked **Senior Planner Livermore** for her commendable efforts in coordinating the implementation of the Housing Element. He stated that brochures had been included in the Commissioner's packets and a web page had been created to assist developers in planning affordable housing. The Planning Division page included many of the ordinances and resolutions and programs that were available. The Site Plan and Architectural Approval handout had been updated.

- Planning Commission retreat - October 13, 2005 from 2 p.m. to 7 p.m. at Don Edwards San Francisco Bay National Wildlife Refuge Conference Room.

**Planning Director Schwob** stated the date was a third Thursday, which was one of the Commission's preferences. E-mails would be sent to each Commissioner for confirmation.

**Commissioner Weaver** stated that she would be out of town on that date.

- Report on actions of City Council Regular Meeting of July 26, 2005.
  - Fire Station #6 (Centerville) - Approved
  - Selma Avenue Utility Easement Abandonment - Approved
  - Appeal of Permit for Sandhu Residence on East King Avenue – Upheld, which overturned the Commission's approval. The access was found to be in violation of Measure T and some direction was given to the applicant.

**Planning Director Schwob** noted that the Planning Commission would be in recess for the rest of August and the next meeting would be held on September 8<sup>th</sup>.

Information from Commission: Commission members may report on matters of interest.

**Chairperson Harrison** stated that he understood that the city had an exclusive agreement with BFI Waste Company to require that companies operating within the city use only that company. He had been told that commercial accounts were not being enforced on new job sites and construction sites and they were using outside waste companies. These uses meant less money was coming into the city's coffers. He suggested that a condition should be added to these projects that required the applicant to contract with the city's waste contractor for waste removal.

**Planning Director Schwob** stated that staff would discuss this situation with Environmental Services. He knew that documentation was required concerning the location of where demolition debris would be sent, along with other requirements. He understood the question was whether what was on paper was really happening in the field.

Meeting adjourned at 9:45 p.m.

SUBMITTED BY:

Alice Malotte  
Recording Clerk

APPROVED BY:

Kathleen Livermore, Secretary  
Planning Commission